

Christopher Washington appeals his convictions for two counts of murder in the perpetration of a robbery,¹ attempted murder as a class A felony,² attempted robbery as a class A felony,³ aggravated battery as a class B felony,⁴ criminal confinement as a class B felony,⁵ battery as a class C felony,⁶ and being an habitual offender.⁷ Washington raises one issue on appeal, which we revise and restate as whether the evidence is sufficient to support Washington's convictions. We affirm.

The facts most favorable to the convictions follow. Early on December 19, 2003, Lewayne Green, Tivon Williams, and George Lynn were at Williams's apartment on Kenwood Street in Hammond, Indiana, playing video games. There was a knock on the door, and Green answered it. He saw Washington, a friend of Williams whom he knew only as "C-Murder" at the time (and later identified as Washington). After opening the door, Green turned around and walked back to his chair. When Green turned around, Washington was pointing a "big gun" in his face. Transcript at 106. Still pointing the semi-automatic handgun in Green's face, Washington ordered Green, Williams, and

¹ Ind. Code § 35-42-1-1 (2004) (subsequently amended by Pub. L. No. 151-2006, § 16, Pub. L. No. 173-2006, § 51, Pub. L. No. 1-2007, § 230 (eff. March 30, 2007)).

² Ind. Code § 35-42-1-1 (2004) (subsequently amended by Pub. L. No. 151-2006, § 16, Pub. L. No. 173-2006, § 51, Pub. L. No. 1-2007, § 230 (eff. March 30, 2007)); Ind. Code § 35-41-5-1 (2004).

³ Ind. Code § 35-42-5-1 (2004); Ind. Code § 35-41-5-1 (2004).

⁴ Ind. Code § 35-42-2-1.5 (2004).

⁵ Ind. Code § 35-42-3-3 (2004) (subsequently amended by Pub. L. No. 70-2006, § 1 (eff. July 1, 2006)).

⁶ Ind. Code § 35-42-2-1 (2004) (subsequently amended by Pub. L. No. 2-2005, § 125 (eff. April 25, 2005)).

⁷ Ind. Code § 35-50-2-8 (2004) (subsequently amended by Pub. L. No. 71-2005, § 11 (eff. April 25, 2005)).

Lynn to lie face down on the floor. Another man had shown up with Washington and was wearing a red mask and also carrying a handgun. Washington pulled out gray duct tape and taped the hands of Green, Williams, and Lynn. After taping up their hands, Washington went through Green's pockets and took his wallet and some money. Washington put the gun to Green's head again, asking "where the rest of it was at." Id. at 110. Green responded that Washington had everything, and Washington then took off Green's shoes.

Soon after, there was a knock on the door of the apartment across the hall. The man with the red mask ordered Green, Williams, and Lynn to be quiet or else he would kill them. After a couple minutes of silence, Washington and the red-masked man began rifling around in the kitchen. Then, Green heard the front door of the apartment open and heard a burst of gunshots.

After the shots had been fired and gray smoke filled the air, Green got up, loosened his hands and obtained help from neighbors. Green, who had been shot in the leg, was transported to the hospital. Williams had six gunshot wounds. Lynn had five gunshot wounds. Williams and Lynn died on the scene from their gunshot wounds. Green later described C-Murder and identified him as Washington through a photo array.

Officers Robert Vaught and Rita Harper were the first to arrive at the scene. Officer Vaught questioned Green and looked around the apartment. Officer Vaught stated that the apartment had been ransacked, with the refrigerator door open, cushions on the floor, and kitchen cabinets open. Prior to the coroner's office checking the bodies,

Sergeant Anthony Jaroszewski noticed that the victims' pockets had been turned inside-out, as if someone had tried to go through them.

Paul Fotia, a firearms examiner, found that by comparison, there were three different firearms which fired the eight different bullets recovered. One of the bullets being an old one, Fotia determined that the other seven bullets came from two different firearms. Fotia also determined that the bullets were fired from semi-automatic firearms.

The State charged Washington with two counts of murder, attempted murder, attempted robbery, aggravated battery, criminal confinement, battery, and being an habitual offender. At the trial, Chanel Washington, Washington's girlfriend, testified that Washington had been with her all morning when the shooting took place. The jury found Washington guilty of all counts. The trial court then ordered Washington to serve 190 years in the Indiana Department of Correction.

The sole issue is whether the evidence is sufficient to sustain Washington's convictions. Our standard of review for sufficiency claims is well settled. We do not reweigh evidence or assess the credibility of witnesses. Taylor v. State, 681 N.E.2d 1105, 1110 (Ind. 1997). Rather, we look to the evidence and reasonable inferences drawn therefrom that support the verdict and will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. Id.

Washington argues that the evidence is insufficient to support any of his convictions because there was "no direct evidence that Washington ever entered the crime scene," except for the testimony of Green. Appellant's Brief at 6. Washington

argues that “[t]he only question is whether any credible evidence was presented to link [him] to these crimes.” Appellant’s Brief at 7-8.

Washington argues the “incredible dubiousity” rule is applicable. Under the incredible dubiousity rule, we will impinge on a jury’s responsibility to judge witness credibility only when confronted with inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony of incredible dubiousity. Majors v. State, 748 N.E.2d 365, 367 (Ind. 2001). The incredible dubiousity rule, however, is limited to cases where a sole witness presents inherently contradictory testimony that is equivocal or the result of coercion and there is a complete lack of circumstantial evidence of defendant’s guilt. Id. “Application of this rule is rare and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.” Love v. State, 761 N.E.2d 806, 810 (Ind. 2002).

Washington fails to argue that Green’s testimony was inherently contradictory. Instead, Washington argues that Green’s testimony conflicts with the identification testimony of Chanel Washington. This is a mere issue of credibility under the guise of the incredible dubiousity rule. The function of weighing witness credibility lies with the trier of fact, not this court. Whited v. State, 645 N.E.2d 1138, 1141 (Ind. Ct. App. 1995) (citing Thompson v. State, 613 N.E.2d 461, 467 (Ind. Ct. App. 1993)). As a result, we conclude that the incredible dubiousity rule is not applicable. See, e.g., Berry v. State, 703 N.E.2d 154, 160 (Ind. 1998) (holding that the rule is inapplicable when there are only inconsistencies among testimony of the States’ witnesses and not inconsistency in an individual witness’ testimony).

The uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction on appeal. Lawhorn v. State, 452 N.E.2d 915, 919 (Ind. 1983). Here, Green testified that Washington was at the scene. Further, Green knew what Washington looked like and recognized him as one of Williams' friends. Green provided not only a description of Washington, but also picked Washington out of a photo array. Furthermore, Green's testimony was corroborated by several of the States' witnesses. The firearms expert testified that more than one gun fired the shots and that the guns used were semi-automatics. Officers Vaught and Harper saw the victims duct taped on the floor. Jaroszewski found the victims' pockets had been turned inside out. Therefore, we conclude that the evidence was sufficient to sustain Washington's convictions. See, e.g., Hubbard v. State, 719 N.E.2d 1219, 1220 (Ind. 1999) (holding that the uncorroborated testimony of the victim was sufficient to sustain the defendant's convictions for murder, attempted murder, robbery and confinement).

For the foregoing reasons, we affirm Washington's convictions for two counts of murder, attempted murder, attempted robbery, aggravated battery, criminal confinement, battery, and being an habitual offender.

Affirmed.

MAY, J. and BAILEY, J. concur